

From: MARTIN & FERRARO, LLP (OH)

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03/25/2009 14:00

#414 P. 001/003

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MAR 25 2009

MARTIN & FERRARO, LLP  
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FACSIMILE TRANSMITTAL

**TO:**

Name: Mail Stop PETITION  
(Art Unit 3772/Examiner Michael A. Brown)  
  
Firm: U.S. Patent & Trademark Office  
  
Fax No.: 571-273-8300  
  
Subject: U.S. Patent Application No. 10/047,545  
Gary Karlin Michelson  
Filed: January 16, 2002  
THREADED FRUSTO-CONICAL INTERBODY  
SPINAL FUSION IMPLANTS  
Attorney Docket No. 101.0053-01000  
Customer No. 22882  
Confirmation No.: 4993

**FROM:**

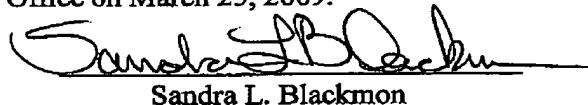
Name: Thomas H. Martin  
  
Phone No.: 330-877-2277  
  
No. of Pages (including this): 3  
  
Date: March 25, 2009  
  
Confirmation Copy to Follow: NO

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**Message:**

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Petition for Deferral of Issuance of Patent (total amount of \$130.00 to cover the Petition fee is to be charged to Deposit Account No. 50-3726) is being facsimile transmitted to the U.S. Patent and Trademark Office on March 25, 2009.



Sandra L. Blackmon

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PATENT  
Attorney Docket No. 101.0053-01000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: ) Confirmation No.: 4993  
Gary Karlin Michelson )  
Serial No.: 10/047,545 )  
Filed: January 16, 2002 )  
For: THREADED FRUSTO-CONICAL )  
INTERBODY SPINAL FUSION )  
IMPLANTS )

MAR 25 2009

Mail Stop PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PETITION FOR DEFERRAL OF ISSUANCE OF PATENT**

Pursuant to 37 C.F.R. § 1.314, Applicant hereby respectfully petitions the Commissioner to grant a deferral of the issuance of the present application until after issuance of parent application, U.S. Serial No. 08/480,908. According to the fee schedule set forth in 37 C.F.R. § 1.17(h), the required fee of \$130.00 for consideration of this Petition is enclosed herewith.

This request for a deferred issuance of a prospective United States patent is made for the causes set forth below which it is respectfully submitted constitute good and sufficient reasons for the action sought.

The issue fee in the present application was paid on February 26, 2009, approximately a month after the issue fee in the parent application was paid on January 28, 2009. Furthermore, the present application is tied to the parent application by a Terminal Disclaimer (filed November 6, 2008 in the present application), and the parent application is a pre-GATT case with a filing date of June 7, 1995. Hence, the parent application should be entitled to a patent term measured seventeen (17) years from issuance. If the present application issues before the parent application, the parent application will be irreparably harmed: the parent application will not be accorded the appropriate patent term afforded by its filing date.

03/27/2009 HMARZI1 0000009 503726 10047545

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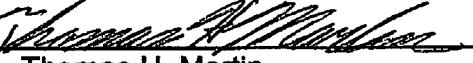
In view of the foregoing, Applicant respectfully requests the deferral of the issuance of the present application until after issuance of parent application, U.S. Serial No. 08/480,908.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: March 25, 2009

By: 

Thomas H. Martin  
Registration No. 34,383

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